



**United States District Court
Southern District of Ohio**

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Richard W. Nagel, Clerk of Court

Potter Stewart U.S. Courthouse

100 East Fifth Street
Cincinnati, OH 45202
513-564-7500

Joseph P. Kinneary U.S. Courthouse

85 Marconi Boulevard
Columbus, OH 43215
614-719-3000

Walter H. Rice Federal Building and
U.S. Courthouse

200 West Second Street
Dayton, OH 45402
937-512-1400

August 23, 2021

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In re: *Wesley R. Davidson v. CSX Transportation, Inc.*
Case No.: 1:15-cv-00528

Dear Attorneys Kenneth Reed, James Wettermark, and Melissa Foster Bird:

I have been contacted by Judge Susan Dlott who presided over the above-mentioned case.

Judge Dlott informed me that it has been brought to her attention that while she presided over the case, she owned stock in CSX Transportation, Inc. Her ownership of stock neither affected nor impacted her decisions in this case. However, her stock ownership would have required recusal under the Code of Conduct for United States Judges, and thus, Judge Dlott directed that I notify the parties of the conflict.

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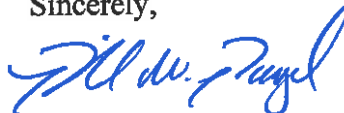
Advisory Opinion 71, from the Judicial Conference Codes of Conduct Committee, provides the following guidance for addressing disqualification that is not discovered until after a judge has participated in a case:

[A] judge should disclose to the parties that facts bearing on disqualification as soon as those facts are learned, even though that may occur after entry of the decision. The parties may then determine what relief they may seek and a court (without the disqualified judge) will decide the legal consequence, if any, arising from the participation of the disqualified judge in the entered decision.

Although Advisory Opinion 71 contemplated disqualification after a Court of Appeals oral argument, the Committee explained “[s]imilar considerations would apply when a judgment was entered in a district court by a judge, and it is later learned that the judge was disqualified.”

With Advisory Opinion 71 in mind, you are invited to respond to Judge Dlott’s disclosure of a conflict in this case. Should you wish to respond, please submit a response on or before September 10, 2021. Any response will be considered by another judge of this court without the participation of Judge Dlott.

Sincerely,



Richard W. Nagel
Clerk of Court